

## Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 DODE-00 PM-04 H-01  
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02  
SS-15 NSCE-00 SSO-00 USIE-00 INRE-00 COME-00  
SIL-01 LAB-04 DHA-02 TRSY-02 /064 W  
-----302331Z 069352 /70

O R 302200Z MAR 77

FM AMEMBASSY BRASILIA  
TO SECSTATE WASHDC NIACT IMMEDIATE 815  
INFO AMEMBASSY ASUNCION  
AMEMBASSY BUENOS AIRES  
AMEMBASSY MONTEVIDEO  
AMCONSUL RIO DE JANEIRO  
AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: PGOV, BR

SUBJ: GOVERNMENT/ARENA-MDB CONFRONTATION OVER JUDICIARY BILL

1. SUMMARY: MAJOR CONFRONTATION BETWEEN GEISEL GOVERNMENT AND OPPOSITION MDB MAY COME TO HEAD IN NEXT 24 HOURS OVER MDB'S BLOCKAGE OF JUDICIARY REFORM CONSTITUTIONAL AMENDMENT. MDB HELD PARTY DISCIPLINE TO DEFEAT GOVERNMENT "COMPROMISE" ALTERNATIVE AMENDMENT MARCH 29, AND MUST NOW TRY SAME ON VOTE ON ORIGINAL GOVERNMENT SPONSORED REFORM AMENDMENT. AT THIS JUNCTURE MDB IS TRYING TO HOLD RANKS WHILE ARENA IS TRYING TO ENTAKE SUFFICIENT NUMBER OF MDB'ERS TO CROSS PARTY LINES TO GIVE GOVERNMENT TWO-THIRDS MAJORITY IT NEEDS. ATTENTION IS FOCUSING ON PRESIDENT'S MAJOR SPEECH MARCH 31 ON ANNIVERSARY OF REVOLUTION, WHICH WOULD PROVIDE OCCASION FOR SERIOUS CRITICISM OF OPPOSITION OR ANNOUNCEMENT OF GOVERNMENT'S RESPONSE. IF MDB PERSISTS IN OPPOSITION, PRESS IS

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SPECULATING THAT CONGRESS MIGHT BE CLOSED PERHAPS WITH, MDB LEADERS CASSATED, AND REFORM BILL PASSED BY PRESIDENTIAL DECREE. END SUMMARY.

2. A MAJOR CONFRONTATION BETWEEN THE GOVERNMENT AND THE MDB HAS DEVELOPED OVER THE MDB'S INTRANSIGENCE OVER THE GOVERNMENT SPONSORED CONSTITUTIONAL AMENDMENT ON

JUDICIAL REFORM. IN A PROLONGED JOINT SESSION MARCH 29 OF THE CHAMBER AND SENATE (NECESSARY FOR CONSIDERATION OF A CONSTITUTIONAL AMENDMENT) THE MDB HELD PARTY DISCIPLINE TO PREVENT ARENA FROM ACHIEVING TWO-THIRDS MAJORITY (283 VOTES) NEEDED TO PASS GOVERNMENT'S AMENDED REFORM MEASURE. ARENA MEASURE WAS A "COMPROMISE" BILL SPONSORED BY PARTY'S SENATE LEADER (REZENDE) AS AN ALTERNATIVE TO GOVERNMENT'S ORIGINAL, MUCH TOUGHER BILL WHICH IS NOW LIKELY TO COME TO THE FLOOR IN NEXT 24 HOURS.

3. MDB "AUTENTICOS," WHO CONSTITUTE PARTY'S STRONGEST OPPOSITION TO GEISEL GOVERNMENT, HAVE HAD UP HILL BUT, SO FAR, VICTORIOUS INTRAPARTY FIGHT SINCE BEGINNING OF THIS SESSION OF CONGRESS MARCH 1. AUTENTICOS INSTALLED THEIR CHOICES IN LEADERSHIP (DEPUTIES ALENCAR FURTADO AND FREITAS NOBRE) IN CHAMBER ONLY BY NARROW MARGIN. (BRASILIA 2058) MDB AT MEETING OF NATIONAL DIRECTORATE MARCH 24, AFTER STORMY SESSION BETWEEN CENTERIST MODERATES AND CONTROLLING LEFT WING "AUTENTICOS," MADE VOTE ON JUDICIAL REFORM SUBJECT TO PARTY DISCIPLINE RULE. MODERATES HAVE BEEN METHODICALLY ENTICED BY ARENA LEADER BONIFACIO TO JOIN ARENA IN VOTING FOR GOVERNMENT BACKED JUDICIARY REFORM AMENDMENT. IN MARCH 29 SESSION, BONIFACIO WENT TO EXTREME OF SAYING MDB HARBORED COMMUNIST DEPUTIES AND URGED MODERATES TO BREAK WITH THEM. AUTENTICOS HAVE BEEN HARDPRESSED TO SUSTAIN PARTY DISCIPLINE, AND GIVEN IDEOLOGICAL DIFFERENCES IN PARTY, MUST ONCE AGAIN UNDERTAKE EFFORT TO PREVENT SOFT SUPPORT LIMITED OFFICIAL USE

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OF 40-45 MODERATES FROM SLIDING OVER INTO ARENA COLUMN, WHICH WOULD GIVE GOVERNMENT NEEDED TWO-THIRDS MAJORITY FOR APPROVAL OF MUCH TOUGHER ORIGINAL MEASURE.

4. MDB LONG STANDING CRITICISM OF JUDICIARY BILL HAS BEEN AIMED AT PROPOSALS FAILURE TO GUARANTEE HABEAS CORPUS, AND JUDICIAL INDEPENDENCE,(BY INSURING JUSTICES WOULD HAVE LIFE TERMS ON COURT AND WOULD NOT BE SUBJECT TO REMOVAL OR CUTS IN SALARY). IN CURRENT EVALUATION OF REFORM PROPOSAL, MDB HAS PUBLICLY FOCUSED ITS OBJECTIONS ON TECHNICAL DEFICIENCIES RATHER THAN FUNDAMENTAL ISSUE OF INDEPENDENCE OF JUDICIARY. IN SUBSTITUTE "LIGHTER" CONSTITUTIONAL AMENDMENT VOTED ON MARCH 29, ARENA HAD ATTEMPTED TO COMPROMISE BY EXCLUDING PROVISIONS OF GOVERNMENT'S ORIGINAL MEASURE WHICH GAVE SUPREME COURT POWER TO SUMMARILY CALL UP A CASE WITHOUT DUE PROCESS FROM A LOWER COURT, AND THE POWER TO INTERPRET A LEGAL PRINCIPLE IN THEORY OUTSIDE OF DUE PROCESS ON A SPECIFIC CASE.

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5. AT THIS JUNCTURE MDB IS MAKING ORGANIZATIONAL EFFORT  
TO HOLD DISCIPLINE FOR FORTHCOMING VOTE ON ORIGINAL  
MEASURE. PLANALTO DURING NIGHT AND EARLY MORNING HOURS  
MARCH 29, THROUGH PRESS SPOKESMEN, HAS INDICATED PRESIDENT  
HAD NOT YET MADE DECISION ABOUT HIS RESPONSE TO MDB  
INTRASIGENCE. AT NOON TODAY CONGRESS WAS RIFE WITH  
RUMORS OF CONGRESSIONAL RECESS OF UP TO 90 DAYS, CASSATIONS,  
AND IMPRISONMENTS.

6. PRESS HAS BEEN SPECULATING, NO DOUBT ON BACKGROUND  
BASIS FOR PRESSURE PURPOSES FROM PLANALTO, THAT PRESIDENT  
IS CONSIDERING FOLLOWING OPTIONS OR MIX THEREOF, SHOULD  
CONSTITUTIONAL AMENDMENT FAIL TO PASS: (A) RECESSING  
CONGRESS FOR 30 DAYS AND REOPENING IT AS A CONSTITUENT  
ASSEMBLY WITH RULES OF PROCEDURE CHANGED SO THAT SIMPLE  
MAJORITY PREVAILS; (B) CLOSING CONGRESS AND CASSATING  
DISSENTING MDB CONGRESSMEN OR THEIR LEADERS; AND (C)  
DECREEING JUDICIAL REFORM BY PRESIDENTIAL FIAT. UNDER AI-5.  
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7. ATTENTION IS NOW FOCUSED NOT ONLY UPON CONGRESS AND ITS ACTIONS OVER NEXT 24 HOURS, BUT ALSO ON PRESIDENT, WHO WILL MAKE MAJOR ADDRESS ON THIRTEENTH ANNIVERSARY OF THE 1964 REVOLUTION, MARCH 31, IN RIO. PRESS IS SPECULATING THAT PRESIDENT WILL USE FORUM FOR ANNOUNCEMENT OF GOVERNMENT'S RESPONSE TO MDB OPPOSITION TO JUDICIARY REFORM MEASURE, OR AT VERY LEAST MAY ATTACK OPPONENTS OF REGIME FOR NOT SUPPORTING MEASURE GOVERNMENT SEES AS PART OF THE REVOLUTIONARY MANDATE.

8. COMMENT: GOVERNMENT AND GEISEL MUST BE AWARE THAT EXTRAORDINARY POWERS WOULD WORSEN BRAZILIAN HUMAN RIGHTS IMAGE ABROAD AT VERY DELICATE TIME. WITH ATTENTION ALREADY FOCUSED ON BRAZIL AMONG HUMAN RIGHTS ACTIVISTS, EXTRA-ORDINARY ACT ABORTING ALREADY CAREFULLY CONTROLLED POLITICAL PROCESS AND FOR CASSATING PROMINENT LIBERAL LEGISLATORS WOULD WORK AGAINST BRAZILIAN IMAGE IN WESTERN EUROPE AND US.

9. MDB IS NOW FACED AGAIN WITH SERIOUS PROSPECT OF INTERNAL SPLIT AND DEFECTION OF MODERATES TO ARENA ON NEXT VOTE OR ALIENATION OF AUTENTICOS IF LEADERS FAIL TO MAINTAIN FIRM STAND. ABILITY TO PAPER OVER DIFFERENCES BETWEEN MODERATES AND AUTENTICOS WILL BE LIMITED. DESERTION OF MODERATES WILL MEAN THAT COALITION OF ARENA AND MDB MODERATES CAN PASS GOVERNMENT-BACKED AMENDMENTS AT WILL, PARTICULARLY ON CRITICAL IMPENDING QUESTIONS OF ELECTION REFORM. MDB AUTENTICOS WILL GROW MORE ISOLATED AND POWERLESS AND MORE VULNERABLE TO CASSATION AND DENUNCIATION AS COMMUNISTS AND LEFTIST OBSTRUCTIONISTS. CONTINUED INTRANSIGENCE, ON OTHER HAND, EXPOSES PARTY TO SERIOUS RISK OF GOVERNMENT REPRISAL AND FURTHER LOSS OF ALREADY LIMITED VOICE IN NATIONAL DECISION-MAKING PROCESS. END COMMENT.  
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## Message Attributes

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